

10/772,138  
HRL126

Filed 02/03/2004  
Ahmed

3 DAC

5 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ahmed

Examiner:

N/A

Serial No.: 10/772,138

Art Unit:

N/A

10 Filed: 02/03/2004

Our Ref: HRL126

For: "Method and Apparatus for Increasing Fault Tolerance for Cross-Layer Communication in Networks"

15 **RE: RESPONSE TO NOTICE OF INCOMPLETE REPLY; PETITION UNDER 37 CFR  
1.182 FOR ACCEPTANCE OF FILING FEE PAYMENT**

20 **Attn: Office of Petitions**  
Commissioner for Patents  
Washington, D.C. 20231

**RESPONSE**

Dear Commissioner:

25 In response to the Notice of Incomplete Reply dated September 15, 2004 with a response period extending up and through November 5, 2004, the Applicant respectfully requests that the Examiner consider the following remarks:

In the Notice of Incomplete Reply, the Office of Initial Patent Examination (OIPE) stated that the statutory filing fee, late filing fee surcharge, and additional claims 30 fee was missing from the response to the Notice of Missing Parts received on August 09, 2004.

The OIPE did receive Applicant's response with this filing, and returned a postcard receipt time-stamped August 09, 2004 (attached as Exhibit A). The postcard clearly indicates that a credit card payment form is included with the response.

35 Additionally, Applicant also submits a copy of the credit card form submitted with the response (attached as Exhibit B), further demonstrating that the proper payment

11/18/2004 SLUANG1 0000001 10772138

01 FC:1460

130.00 0P

5 of the required fees was made with the response to the Notice of Missing Parts on August 09, 2004.

Furthermore, the Transmittal Form submitted with the response to the Notice of Missing Parts on August 09, 2004 (attached as Exhibit C) also indicates that the fee is attached to the response.

10 Applicants also submit an internal document from the Image File Wrapper (attached as Exhibit D) entitled "Office of Initial Patent Examination: Telephone Interview Summary," generated on August 09, 2004. The Interview Summary apparently indicates that a member of the OIPE telephoned Applicant to inform Applicant that a fee was not paid with the response to the Notice of Missing Parts on August 09, 2004.  
15 Unfortunately, the form does not indicate who the member talked to, the telephone number called, or the name of the contact person on the case. The Applicant further asserts that no member of the OIPE or USPTO telephoned or otherwise contacted Applicant on or after August 09, 2004 to indicate that the fee was missing from the response to the Notice of the Missing Parts on August 09, 2004 until Applicant received  
20 the Notice of Incomplete Reply on September 15, 2004.

Considering all of the above arguments, Applicant believes sufficient proof has been submitted to demonstrate that the fee, in the form of a credit card form payment, was attached to the response to the Notice of Missing Parts on August 09, 2004. Thus, Applicant requests that the original fee of \$3,092.00 be charged using the attached credit card payment form, and that the OIPE refrain from charging additional extension fees, which should not be necessary now that proof has been provided of the payment of the appropriate amount on August 02, 2004.

5 **Concluding Remarks**

Therefore, Applicant believes that the present application is now complete and petitions the USPTO to accept the original payment of the filing fee as submitted on August 02, 2004. As Applicant believes the filing fee was paid by the appropriate deadline on August 02, 2004, Applicant additionally requests a refund of the petition fee of \$130.00 included herein under 37 CFR 1.17(h) and any other extension fees that may be charged in connection with this response.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment the attached credit card form. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to enclosed credit card payment form.

20

Date

11/5/04

25

Respectfully submitted,



Cary Tope-McKay  
Registration No. 41,350

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## EXHIBIT A

Serial/Patent No: 10/772,138 Mailing Date: 08/07/2004  
Atty. Ref. No.: HRL126 Attorney: CARY TOPE MCKAY  
Title: METHOD AND APPARATUS FOR INCREASING FAULT TOLERANCE FOR CROSSED LAYER COMMUNICATION IN NETWORKS  
Applicant: AHMED  
The following, due \_\_\_\_\_ in the U.S. Patent & Trademark Office, was received in the U.S. Patent & Trademark Office Mail Room on the date stamped hereon:

US Patent Application Amendment/Response  
including: Petition for Extension of Time (\_\_\_\_ mths)  
 Pages of Specification, including: Amendment After Final Rejection  
 Claims Preliminary Amendment  
 - page Abstract Letter to Official Draftsperson  
 Formal/Informal Drawings Sheet(s) Notice of Appeal  
 Transmittal Letter Appeal Brief  
 Declaration Issue Fee Transmittal  
 Assignments with Form PTO 1619 Maintenance Fee Transmittal  
 Fee Calculation Sheet (2 copies) PCT Request Form  
 Priority Document(s) PCT Demand Form  
 IDS w/Form PTO 1449 w/ references Check No. \_\_\_\_\_ for \$ \_\_\_\_\_  
 CREDIT CARD PAYMENT FORM \$2,982.00 \_\_\_\_\_  
 CERTIFICATE OF MAILING \_\_\_\_\_



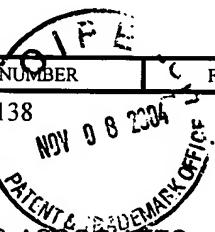


# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/772,138 NOV 9 8 2004	02/03/2004	Mohiuddin Ahmed	HRL126

28848  
TOPE-MCKAY & ASSOCIATES  
23852 PACIFIC COAST HIGHWAY #311  
MALIBU, CA 90265



CONFIRMATION NO. 1899

FORMALITIES LETTER



\*OC000000013809711\*

Date Mailed: 09/15/2004

## NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

### *Filing Date Granted*

The U.S. Patent and Trademark Office has received your reply on 08/09/2004 to the Notice to File Missing Parts (Notice) mailed 05/05/2004 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application. Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 770 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- Late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 was not received.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Additional claim fees of **\$2082** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

### **SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **\$2982** for a Large Entity

	11/18/2004 SLUANG1 00000001 10772138
• \$770 Statutory basic filing fee.	03 FC:1001 790.00 DP
• \$130 Late oath or declaration Surcharge.	04 FC:1201 528.00 DP
	05 FC:1051 130.00 DP
	06 FC:1202 1548.00 DP
• Total additional claim fee(s) for this application is \$2082	07 FC:1999 6.00 DP

- \$516 for 6 independent claims over 3.
- \$1566 for 87 total claims over 20.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

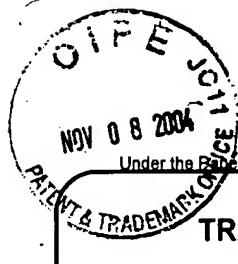
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*A copy of this notice MUST be returned with the reply.*

*m-munday*  
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



## EXHIBIT C

PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

### TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

	Application Number	10/772,138
	Filing Date	02/03/2004
	First Named Inventor	AHMED
	Art Unit	
	Examiner Name	
Total Number of Pages in This Submission	Attorney Docket Number	HRL126

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input checked="" type="checkbox"/> Response to Missing Parts/ Incomplete Application <input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____  <input type="checkbox"/> Remarks	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	CARY TOPE-MCKAY
Signature	
Date	08/02/2004

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Typed or printed name	CARY TOPE-MCKAY		
Signature		Date	08/02/2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Document Code: IMIS **EXHIBIT D**

-MP

Office of Initial Patent Examination

Telephone Interview Summary

Original Application Number:

10/772,138

Name of Contact:

\_\_\_\_\_

Phone Number:

\_\_\_\_\_

Per telephone conversation with the applicant on \_\_\_\_\_, the following instructions have been given:

no fee

Eleanor Kurl  
(Please print name)  
OIPE Customer Service